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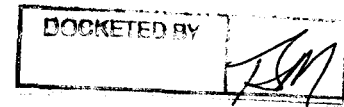
2013 MAR 29 Arizona Corporation Commission

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AZ CORP COMMISSION
DOCKET CONTROL MAR 29 2013



IN THE MATTER OF THE
APPLICATION OF TUCSON ELECTRIC
POWER COMPANY FOR THE
ESTABLISHMENT OF JUST AND
REASONABLE RATES AND CHARGES
DESIGNED TO REALIZE A
REASONABLE RATE OF RETURN ON
THE FAIR VALUE OF ITS OPERATIONS
THROUGHOUT THE STATE OF
ARIZONA.

DOCKET NO. E-01933A-12-0291

**RESPONSIVE BRIEF OF OPOWER,
INC. AND PARTIAL JOINDER OF
TUCSON ELECTRIC POWER CO.'S
CLOSING BRIEF**

Opower, Inc. ("Opower") by and through its undersigned counsel, hereby files its Responsive Brief. Opower supports and joins in the Closing Brief filed by Tucson Electric Power Company ("TEP"), specifically Sections IV, F and G and Section VI as set forth herein. As a result, Opower requests that the Administrative Law Judge in this proceeding adopt the Settlement Agreement without modification.

I. Section IV. F Energy Efficiency Plan

Opower is an Arlington, Virginia-based company that provides information-based behavioral energy efficiency programs for over 75 utilities in 30 states, including Tucson Electric Power, UNS Electric, and Arizona Public Service in Arizona. (Opower-1 at 5). This year, Opower will deliver personalized energy usage insights to more than 15 million residential customers through paper mail, email, websites, smart phones, and text messages. (*Id.*). Opower's Home Energy Reports program consistently motivates customers to save an average of 1.5-3% on their energy bills. (*Id.*). Opower has helped its utility partners drive this level of energy efficiency at scale, achieving more than 1.6 terawatt-hours in energy savings, and driving significant

1 increases in customer energy efficiency program participation and overall customer satisfaction.
2 (*Id.*).

3 Opower supports approval of TEP's Energy Efficiency plan as proposed in this case and is
4 a signatory to the Settlement Agreement. (Opower-2 at 3). Electric energy efficiency delivers
5 significant and cost-effective benefits for TEP customers, the electric system, and the economy.
6 (Opower-1 at 6). Cost-effective energy efficiency is a reliable resource, which is less expensive
7 than other energy sources. (*Id.*). Because cost-effective energy efficiency is the lowest cost
8 generation resource, increasing investment in energy efficiency efforts can save consumers
9 money through lower electric bills. (*Id.*). Investment in additional energy efficiency programs is
10 in the public interest as it allows for the diversification of the energy resource portfolio of
11 utilities, enhances grid reliability, and defers investment in unnecessary and expensive
12 infrastructure. (*Id.*). Finally, by reducing electricity demand, energy efficiency mitigates the need
13 to increase electricity and fuel prices and reduces customer vulnerability and exposure to price
14 volatility. Put simply, energy efficiency saves ratepayers money. (*Id.*).

15 TEP's commitment to reinstate and receive cost recovery for EE programs that were
16 suspended or cut serves the public interest in two ways. (Opower-2 at 3). First, EE programs will
17 be able to deliver significant savings for a large number of TEP residential customers during the
18 upcoming summer months and help TEP to shift energy use from peak times during the upcoming
19 summer months. (*Id.*). Second, energy efficiency companies will be given more long-term
20 regulatory certainty to continue to do business in the state of Arizona. (*Id.*).

21 **II. Section IV.G Lost Fixed Cost Recovery (LFCR).**

22 Opower supports cost recovery of TEP's Energy Efficiency Plan through the LFCR.
23 TEP's suspension of existing EE programs prevents EE businesses like Opower from providing
24 energy savings to customers and paralyzes the business environment for energy efficiency in the
25 state. (Opower-2 at 3). If TEP is unable to recover its costs to meet its existing and future EE
26 obligations, EE businesses will likely view any future investments in the state as too much of a

1 risk. (*Id.*). Currently, utilities can receive a rate of return on capital assets like power plants, but
2 not on lower-cost resources like energy efficiency. (Opower-1 at 8). This incentivizes utilities to
3 build more plants, increasing the rate base and raising costs for consumers in the long-term. (*Id.*).
4 Many states throughout the US, including Arizona, have recognized the importance of energy
5 efficiency as a resource, and have created Energy Efficiency Resource Standards or EERS, to
6 require utility investment in energy efficiency. (Opower-1 at 8-9). These policies have
7 successfully created a market for energy efficiency in over 26 states. (Opower-1 at 9). Although
8 these policies are helpful in driving energy efficiency investment, without a guaranteed program
9 cost recovery mechanism, utilities would not have the incentive to invest in energy efficiency as
10 they would if such cost recovery was guaranteed. (*Id.*).

11 Energy efficiency businesses like Opower need long-term regulatory certainty, similar to
12 what they enjoy in other states, to thrive in Arizona. (Opower-1 at 10). Regulatory certainty for
13 utilities like TEP translates directly to market certainty for businesses that serve utilities in
14 achieving their regulatory objectives. (*Id.*). Unclear expectations create market uncertainty.
15 (*Id.*). This can occur when energy efficiency programs are approved but unfunded or when
16 utilities are given aggressive energy efficiency goals but denied the resources to meet those goals.
17 (*Id.*). Such market uncertainty forces companies to look to other states to do business. (*Id.*).

18 **III. Section VI. TEP requires Resolution of Energy Efficiency Issues.**

19 Opower recognizes that there needs to be some type of resolution to TEP's Energy
20 Efficiency issues in this rate case. Although the Commission approved new EE programs, like
21 the Home Energy Report program, and expanded budgets throughout the 2010-2011 timeframe,
22 the adjustor mechanism to collect the Commission-approved EE program funds has not been reset
23 since June 1, 2010. (Opower-1 at 9). As a result, the adjustor mechanism has not been reset to
24 adequately fund Commission-authorized programs and program budgets and beginning in March
25 2012, many of TEP's existing programs were suspended or downsized and expansions were
26 delayed. (Opower-1 at 10). Specifically, the Home Energy Reports program was suspended as of

1 October 2012. (*Id.*). More certain cost recovery for TEP will create additional long-term
2 regulatory certainty for EE companies, allowing them to continue to do business in the state of
3 Arizona. (Opower-2 at 4). When EE programs are approved without a cost-recovery mechanism
4 in place, regulatory and market uncertainty will follow. (*Id.*).

5 **IV. Conclusion.**

6 For the reasons set forth in TEP's Closing Brief and supported herein, Opower requests
7 that the Administrative Law Judge in this proceeding adopt the Settlement Agreement without
8 modification.

9
10 RESPECTFULLY SUBMITTED this 29th day of March, 2013.

11 MUNGER CHADWICK, P.L.C.

12
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26 Parties of Record

